RECENT TDS/ TCS AMENDMENTS VIA FINANCE BILL, 2020

Compiled by- CA Lucky Pal Singh

Amendment u/s Sec 192

Current Taxability

Currently ESOPs are taxed as perquisites under section 17(2) of the Act read with Rule 3(8)(iii) of the Rules. The taxation of ESOPs is split into two components:

i. Tax on perquisite as income from salary at the time of exercise.
ii. Tax on income from capital gain at the time of sale.

The tax on perquisite is required to be paid at the time of exercising of option which may lead to cash flow problem as this benefit of ESOP is in kind.

Proposed Amendment

In order to ease the burden of payment of taxes, it is proposed to amend section 192 of the Act, and insert sub-section (1C) therein to clarify that for the purpose of deducting or paying tax under sub-sections (1) i.e. salary or (1A) i.e. perquisites of Sec 192 thereof, as the case may be, a person, being an eligible start-up referred to in section 80-IAC, responsible for paying any income to the assessee being perquisite of the nature specified in section 17(2)(vi) of the Act, in any previous year relevant to the AY 2021-22 or subsequent AY year, deduct or pay, as the case may be, tax on such income within fourteen days —

(i) after the expiry of 48 months from the end of the relevant AY; or
(ii) from the date of the sale of such specified security or sweat equity share by the assessee; or
(iii) from the date of which the assessee ceases to be the employee of the person;

whichever is the earliest on the basis of rates in force of the financial year in which the said specified security or sweat equity share is allotted or transferred.

Applicability

These amendments will take effect from 1st April, 2020.

Amendments u/s 194J

Existing Provisions

Section 194J

The provisions of the said section stipulates that any person, not being an individual or a HUF, who is responsible for paying to a resident any sum by way of fees for professional services, or fees for technical services, or any remuneration or fees or commission by whatever name called (other than those on which tax is deductible under section 192 of the Act, to a director), or royalty or any sum referred to in clause (va) of section 28, shall, at the time of payment or credit of such sum to the account of the payee, deduct an amount equal to ten per cent as income-tax.

Section 194C

Section 194C of the Act provides that any person responsible for paying any sum to a resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract shall at the time of payment or credit of such sum
deduct an amount equal to one per cent in case payment is made to an individual or a HUF and two per cent in other cases.

Reason for Amendment

It is noticed that there are large number of litigations on the issue of short deduction of tax treating assessee in default where the assessee deducts tax under section 194C, while the tax officers claim that tax should have been deducted under section 194J of the Act.

Proposed Amendment

Therefore, to reduce litigation, it is proposed to reduce rate for TDS in section 194J in case of fees for technical services (other than professional services) to two per cent from existing ten per cent. The TDS rate in other cases under section 194J would remain same at ten per cent.

Applicability

This amendment will take effect from 1st April, 2020.

Amendment u/s 194A of the Act

Existing Provisions

- Section 194A of the Act governs interest other than interest on securities.
- Sub-section (3) of said section provides for circumstances in which the provisions of sub-section (1) shall not apply.

Proposed Amendment

In order to extend the scope of this section to interest paid by large co-operative society, it is proposed to amend Sec 194A(3) i.e. non applicability provisions and insert proviso to provide that a co-operative society referred to in 194A(3)(v) or 194A(3)(viia) shall be liable to deduct income-tax, if-

(a) the total sales, gross receipts or turnover of the co-operative society exceeds Rs. 50 Crores during the FY immediately preceding the FY in which the interest paid; and

(b) the amount of interest during the FY is more than Rs. 40,000/- (In case, payee is senior citizen, Rs. 50,000/-)

Applicability

This amendment will take effect from 1st April, 2020

Introduction of Sec 194-O

Applicability

The TDS is to be paid by e-commerce operator for sale of goods or provision of service facilitated by it through its digital or electronic facility or platform;

Time of Deduction

E-commerce operator is required to deduct TDS at the earliest of the following: -

- At the time of credit of amount of sale or service or both to the account of e-commerce participant, or
- At the time of payment thereof to such participant by any mode

Rate of TDS

The tax at one per cent is required to be deducted on the gross amount of such sales or service or both.

Taxability in the hands of e-commerce participant

Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant shall be deemed to be amount credited or paid by the e-commerce operator to the e-commerce participant and shall be included in the gross amount of such sales or services for the purpose of deduction of income-tax.

<u>Exception</u>
The sum credited or paid to an e-commerce participant (being an individual or HUF) by the e-commerce operator shall not be subjected to provision of this section, if the gross amount of sales or services or both of such individual or HUF, through e-commerce operator, during the previous year does not exceed five lakh rupees and such e-commerce participant has furnished his Permanent Account Number (PAN) or Aadhaar number to the e-commerce operator.

Clarifications
A transaction in respect of which tax has been deducted by the e-commerce operator under this section or which is not liable to deduction under the exemption discussed in the previous bullet, there shall not be further liability on that transaction for TDS under any other provision of Chapter XVII-B of the Act. This is to provide clarity so that same transaction is not subjected to TDS more than once.

However, it has been clarified that this exemption will not apply to any amount received or receivable by an e-commerce operator for hosting advertisements or providing any other services which are not in connection with the sale of goods or services referred to in sub-section (1) of the proposed section.

Definitions

- "e-commerce operator" is defined to mean any person who owns, operates or manages digital or electronic facility or platform for electronic commerce and is a person responsible for paying to e-commerce participant.
- "e-commerce participant" is defined to mean a person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce.
- "electronic commerce" is defined to mean the supply of goods or services or both, including digital products, over digital or electronic network.
- "services" is defined to include fees for technical services and fees for professional services, as defined in section 194J.
- Consequential amendments are being proposed in section 197 (for lower TDS), in section 204 (to define person responsible for paying any sum) and in section 206AA (to provide for tax deduction at 5 per cent. In non-PAN/ Aadhaar cases).

<u>Applicability</u>
This amendment will take effect from 1st April, 2020.

Amendment u/s 206C

<u>Existing Provisions</u>

- Section 206C of the Act provides for the collection of TCS on business of trading in alcohol, liquor, forest produce, scrap etc.
- Sub-section (1) of the said section provides that every person, being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of certain goods a sum equal to specified percentage, of such amount as income-tax.

<u>Proposed Amendments</u>

- In order to widen and deepen the tax net, it is proposed to amend section 206C to levy TCS on overseas remittance and for sale of overseas tour package, as under:
  - An **authorised dealer** receiving any sum exceeding Rs. 7 Lacs in a FY for remittance out of India under the Liberalised Remittance Scheme (LRS) of RBI, shall be liable to collect TCS @ 5 %. (Non-PAN/Aadhaar cases: 10%).
  - A seller of an **overseas tour program package** who receives **any amount** from **any buyer**, being a person who purchases such package, shall be liable to collect TCS @ 5% (Non-PAN/ Aadhaar cases: 10%)

  Non-Applicability

  The above TCS provision shall not apply if the buyer is, -

  (a) liable to deduct TCS under any other provision of the Act and he has deducted such amount.

  (b) the CG, a SG, an embassy, a High Commission, legation, commission, consulate, the trade representation of a foreign State, a local authority or any other person notified by the CG

  Definitions

  - **"Authorised Dealer"** to mean a person authorised by the RBI u/s 10(1) of FEMA, 1999 to deal in foreign exchange or foreign security.
  - **"Overseas Tour Program Package"** to mean any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expense of similar nature or in relation thereto.

<u>Further Proposed Amendments</u>

Further, in order to widen and deepen the tax net, it is proposed to amend section 206C to levy TCS on sale of goods @ 0.1% on consideration received (Non-PAN/Aadhaar cases: 1%) subject to the satisfaction of the following conditions: -

- Consideration received from a buyer in a previous year in excess of Rs. 50 Lacs;
- Only those sellers are covered whose total sales, gross receipts or turnover from the business carried on by it exceed Rs. 10 Crores during the FY immediately preceding the FY;
- CG may notify person, subject to conditions contained in such notification, who shall not be liable to collect such TCS.

Exceptions

- No TCS is to be collected from the CG, a SG and an embassy, a High Commission, legation, commission, consulate, the trade representation of a foreign State, a local authority or any other person as the CG may notify.
- No such TCS is to be collected, if the seller is liable to collect TCS under other provision of section 206C or the buyer is liable to deduct TDS under any provision of the Act and has deducted such amount.

<u>Applicability</u>

These amendments will take effect from 1st April, 2020.

Amendment u/s 194C

<u>Existing definition of Work</u>

- The existing provisions of section 194C provides for the deduction of tax on payments made to contractors.

- The section provides that any person responsible for paying any sum to a resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract shall at the time of such credit or at the time of payment whichever is earlier deduct an amount equal to **one per cent** in case payment is made to an **individual or an HUF** and **two per cent** in **other** cases.
- **Clause (iv) of the Explanation** of the said section defines **"work". Sub-clause (e)** of this definition includes **manufacturing or supplying** a product according to the requirement or specification of a customer by **using material purchased** from **such customer** within the definition. However, it **excludes** manufacturing or supplying a product according to the requirement or specification of a customer by using **material purchased from a person, other than such customer.**

It has been noted that some assessees are using the escape clause of the section by getting the contract manufacturer to procure the raw material supplied through its related parties. As a result, a substantial amount of income escapes the tax net.

<u>Proposed Amendment</u>

Therefore, to bring clarity in the section and plug the leakage, it is proposed to amend the definition of "work" under section 194C to **provide that in a contract manufacturing, the raw material provided by the assessee or its associate shall fall within the purview of the 'work' under section 194C**.

#Associate means a person who is placed similarly in relation to the customer as is the person placed in relation to the assessee under the provisions contained in Sec 40A(2)(b) of the Act.

<u>Applicability</u>

This amendment will take effect from 1st April, 2020.

Amendment in Sec 115-O + Introduction of Sec 194K + Introduction of Sec 80M

Current Provisions of Sec 115-O

At present, the said section provides that, in addition to the income-tax chargeable in respect of the total income of a domestic company, any amount declared, distributed or paid by way of dividends shall be charged to additional income-tax at the rate of 15 per cent. The tax so paid by the company (called DDT).

Burden to Pay Tax

- The dividend referred to in section 115-O is exempt in the hands of shareholders u/s 10(34).
- In case of business trust, specific exemption is provided u/s 115-O (7), subject to certain conditions.
- Similarly, exemption is provided for distributed profits of a unit of an International Financial Service Centre, on fulfilment of certain conditions, u/s Sec 115-O (7) of the Act.

Sec 115R

Similar to the provision of Sec 115-O, as per the provisions of Sec 115R, specified companies and Mutual Funds are liable to pay additional income-tax at the specified rate on any amount of income distributed by them to its unit holders. Such income is then exempt in the hands of unit holders under Sec 10(35).

Why Change needed?

The present system of taxation of dividend in the hands of company/ mutual funds was reintroduced by the Finance Act, 2003 (with effect from the assessment year 2004-05) since it was easier to collect tax at a single point and the new system might lead to increase in compliance burden. However, with the advent of technology and easy tracking system available, the justification for current system of taxation of dividend has outlived itself.

Proposed Amendments

In view of above, it is proposed to carry out amendments so that dividend or income from units are taxable in the hands of shareholders or unit holders at the applicable rate and the domestic company or specified company or mutual funds are not required to pay any DDT.

It is also proposed to provide that the deduction for expense under section 57 of the Act shall be maximum 20 per cent of the dividend or income from units.

Therefore, it is proposed to Amend the provisions of the following section-

Applicable w.e.f. 01.04.2021

SN	Section	Proposed Amendment
1	115-O	Provision of the existing clause shall be applicable only on dividend declared, distributed or paid after 01.04.2003, but on or before 31.03.2020
2	10(34)	Provision of the existing clause shall not apply to any income, by way of dividend, received on or after 01.04.2020
3	115R	Provision of the existing section shall be applicable only on the income distributed on or before 31.03.2020
4	10(35)	Provision of this clause shall not apply to any income, in respect of units, received on or after 01.04.2020
5	10(23FC)	Amend clause (23FC) of section 10 so that all dividends received or receivable by business trust from a special purpose vehicle is exempt income under this clause.
6	10(23FD)	To exclude dividend income received by a unit holder from business trust from the exemption so that the dividend income is taxable in the hand of unit holder of the business trust.
7	115UA (3)	To delete reference to sub-clause (a) so that distributed income of the nature as referred to in clause (23FC) or clause (23FCA) of section 10 shall be deemed to be income of the unitholder and shall be charged to tax as income of the previous year. Thus, dividend income distributed by a special purpose vehicle to business trust would be taxed in the hands of unit holder.
8	Other Sections	Remove reference of section 115-O dividend income in various sections like section 57, section 115A, section 115AC, section 115ACA, section 115AD and section 115C
9	10(23D)	Remove the opening line of clause (23D) of section 10, as mutual fund no longer required to pay additional tax.
10	115BBDA	(Amend section 115BBDA which taxes dividend income in excess of ten lakh rupee in the hands of shareholder at ten per cent., to only dividend declared, distributed or paid by a domestic company on or before the 31st day of March, 2020.
11	57	Amend section 57 to provide that no deduction shall be allowed from dividend income, or income in respect of units of mutual fund or specified company, other than deduction on account of interest expense and in any previous year such deduction shall not exceed twenty per cent. of the dividend income or income from units included in the total income for that year without deduction under section 57.

Amendment in TDS Sections (Applicable w.e.f. 01.04.2020)

SN	Sec	Existing Provisions	Proposed Amendment
1	196D	Presently no TDS is required to be deducted in respect of any dividends referred to in section 115-O payable to Foreign Institutional Investors	(a) In order to remove exclusion provided to dividend under section 115-O. (b) It is also proposed to substitute "in cash or by the issue of a cheque or draft or by any other mode" with "by any mode".
2	196C	Presently no TDS is required to be deducted in respect of any dividends referred to in section 115-O payable to NRI on bonds or Global Depository Receipts	(a) In order to remove exclusion provided to dividend under section 115-O. (b) It is also proposed to substitute "in cash or by the issue of a cheque or draft or by any other mode" with "by any mode".
3	196A	• The said section says that any person responsible for paying to a NRI, not being a company, or to a foreign company, any income in respect of units of a Mutual Fund specified under clause (23D) of section 10 or of the UTI shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of twenty per cent • The provisions of Sec 196A made redundant w.e.f. 01.04.2013.	• Amend section 196A to revive its applicability on TDS on income in respect of units of a Mutual Fund. • It is also proposed to substitute "of the Unit Trust of India" with "from the specified company defined in Explanation to clause (35) of section 10"and "in cash or by the issue of a cheque or draft or by any other mode" with "by any mode".
4	195	Presently no TDS is required to be deducted in respect of any dividends referred to in section 115-O paid to NRI, not being a company, or to a foreign company	Amend section 195 to delete exemption provided to dividend referred to in section 115-O.
5	194LBA	Presently no TDS u/s 194LBA is deducted on dividend income referred to in Section 115-O	Amend section 194LBA to provide for tax deduction by business trust on dividend income paid to unit holder, at the rate of ten per cent. for resident. For non-resident, it would be 5 per cent for interest and ten per cent. for dividend.
6	Sec 194	Presently no TDS u/s 194 is deducted on dividend paid by domestic company referred to in Section 115-O	Amend section 194 to include dividend for tax deduction. At the same time the rates of ten per cent. is proposed to be prescribed and threshold is proposed to be increased from Rs 2,500/- to Rs 5,000/- for

			dividend paid other than cash. Further, at present the mode of payment is given as “an account payee cheque or warrant”. It is proposed to change this to any mode.

<u>Insertion of new sections</u>

Sec 194K (Applicable w.e.f. 01.04.2020)

The said section provides that any person responsible for paying to a **resident** any income in respect of

- Units of a Mutual Fund specified under clause (23D) of section 10, or
- Units from the administrator of the specified undertaking, or
- Units from the specified company

shall at the time of credit of such income to the account of the payee or at the time of payment thereof by any mode, whichever is earlier, deduct income-tax there on at the rate of **ten per cent**.

It may also be provided for threshold limit of Rs 5,000/- so that income below this amount does not suffer tax deduction.

It is also proposed to defined “Administrator”, “specified company”, as already defined in clause (35) of section 10.

It is also proposed to define “specified undertaking” as in clause (i) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002.

It is also proposed to provide that where any income is credited to any account like suspense account, in the books of account of the person liable to pay such income, the liability for tax deduction under this section would arise at that time.

Sec 80M (Applicable w.e.f. 01.04.2021)

Insert new section 80M as it existed before it removal by the Finance Act, 2003 to remove the cascading affect, with a change that set off will be allowed only for dividend distributed by the company one month prior to the due date of filing of return, in place of due date of filing return earlier

<u>Old Provisions of Sec 80M (Omitted via Finance Act, 2003 - Circular No. 7/2003, Dated 5-9-2003)</u>

<u>Abolition of tax on dividends and levy of additional income-tax on distributed profits</u>

Under the old provisions of the Act and upto 31.03.2003, dividend declared, distributed or paid was chargeable to income-tax in the hands of the recipients, i.e., the shareholders. Section 80L provided for deduction of a specified amount from the gross total income in respect of dividends received by a taxpayer.

To prevent the cascading effect in the case of a company, section 80M provided for a deduction to a domestic company which received dividend from another domestic company and again distributed dividend out of its profits. The amount of deduction on the dividends, so received by a domestic company from another domestic company, was limited to the extent of dividends distributed by the recipient company on or before the due date of filing of return.

The Act has substituted sub-section (1) of section 115-O of the Income-tax Act to provide that the amounts declared, distributed or paid on or after 1st April, 2003 by a domestic company by way of dividends shall be charged to additional income-tax at the flat rate of twelve and *one-half per cent, in addition to the normal income-tax chargeable on the income of the company.*

It has also been provided that dividends received from domestic companies on or after 1st April, 2003 shall be exempt from income-tax. Consequently, deductions under sections 80L and 80M in respect of dividends have been discontinued.

CBDT vide its press release dt. 04/02/2020 issues clarification on the applicability of TDS provisions on Mutual Fund dividend which are as under:
The Finance Bill, 2020 proposed to remove Dividend Distribution Tax (DDT) at the level of Company/ Mutual Fund and proposed to tax the same in the hands of share/unit holder. It was also proposed to levy TDS at the rate of 10% on the dividend/ income paid by the Company/Mutual Fund to its share/unit holder if the
amount of such dividend/ income exceeds five thousand rupees in a financial year.

Queries have been received to the effect that whether under the proposed section 194K, the Mutual Fund would be required to deduct TDS also on the capital gains arising on redemption of units. It is hereby clarified that under the proposed section, a Mutual Fund shall be required to deduct TDS @ 10% only on dividend payment and no tax shall be required to be deducted by the Mutual Fund on income which is in the nature of capital gains.

Sec 44AB r.w.s 194A, 194C, 194H, 194I, 194J and 206C

Under section 44AB of the Act, every person carrying on **business** is required to get his accounts audited, if his **total sales, turnover or gross receipts**, in business exceed or **exceeds one crore rupees** in any previous year. In case of a person carrying on **profession** he is required to get his accounts audited, if his **gross receipt** in profession **exceeds fifty lakh rupees** in any previous year.

In order **to reduce compliance burden** on small and medium enterprises, it is proposed to **increase the threshold limit** for a person carrying on **business** from **one crore rupees to five crore rupees** in cases where, -

(i) **aggregate of all receipts in cash** during the previous year **does not exceed five per cent of such receipt**; and
(ii) **aggregate of all payments in cash** during the previous year **does not exceed five per cent of such payment**.

Further, to enable pre-filling of returns in case of persons having income from business or profession, it is required that the tax audit report may be furnished by the said assessees at least one month prior to the due date of filing of return of income. This requires amendments in all the sections of the Act which mandates filing of audit report along with the return of income or by the due date of filing of return of income.

Further, the due date for filing return of income under sub-section (1) of section 139 is proposed to be amended by: -

(A) providing 31st October of the assessment year (as against 30th September) as the due date for the following assessees: -
  (i) a company
  (ii) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force; or
  (iii) a working partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force,

(B) removing the distinction between a working and a non-working partner of a firm with respect to the due date of Tax Audit and thus in both the cases, the due date for Tax Audit will be the 31st October.

These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

The amendment relating to extending threshold for getting books of accounts audited will have consequential effect on TDS/TCS provisions contained in sections 194A, 194C, 194H, 194I, 194J and 206C as these provisions fasten liability of TDS/TCS on certain categories of person, if the gross receipt or turnover from the business or profession carried on by them exceed the monetary limit specified in clause (a) or clause (b) of section 44AB.

Therefore, it is proposed to amend these sections so that reference to the monetary limit specified in clause (a) or clause (b) of section 44AB of the Act is substituted with rupees one crore in case of the business or rupees fifty lakh in case of the profession, as the case may be.

Applicability
These amendments will take effect from 1st April, 2020.

Rationalisation of provision relating to Form 26AS and deletion of Form 203AA and introduction of Sec 285BB

Presently the issuance of Form 26AS is governed by the provisions of Sec 203AA of the Act which says as under: -
"The prescribed income-tax authority or the person authorised by such authority referred to in sub-section (3) of section 200, shall, within the prescribed time after the end of each financial year beginning on or after the 1st day of April, 2008 prepare and deliver to every person from whose income the tax has been deducted or in respect of whose income the tax has been paid a statement in the prescribed form specifying the amount of tax deducted or paid and such other particulars as may be prescribed."

Prior to Finance (No.2) Act, 2004, an assessee is entitled to credit in respect of tax deducted at source ('TDS') and tax collected at source ('TCS') on the basis of a certificate issued by the person responsible for deducting or collecting tax at source. Such certificate has to be enclosed with the return of income, to claim the credit.

The Finance (No.2) Act, 2004 [as amended by Finance Act, 2006] proposed dematerialisation of TDS and TCS certificates and, to state briefly, provided that on and after 1-4-2005 (applicable w.e.f. 01.04.2008):

- the person responsible for deducting TDS or collecting TCS should file quarterly statements with the income-tax authority or authorised person;
- such authority or person would furnish a statement of tax deducted or collected at source ('Form 26AS') to the payee or buyer;
- the person responsible for deducting or collecting tax at source need not furnish certificate to the payee or buyer; and
- the payee or buyer would be entitled to the credit for TDS or TCS based on the statement furnished by such authority or person.

However, with the advancement in technology and enhancement in the capacity of system, multiple information in respect of a person such as sale/purchase of immovable property, share transactions etc. are being captured or proposed to be captured.

In future, it is envisaged that in order to facilitate compliance, this information will be provided to the assessee by uploading the same in the registered account of the assessee on the designated portal of the Income-tax Department, so that the same can be used by the assessee for filing of the return of income and calculating his correct tax liability.

As the mandate of Form 26AS would be required to be extended beyond the information about tax deducted, it is proposed to introduce a **new section 285BB** in the Act regarding annual financial statement. This section proposes to mandate the prescribed income-tax authority or the person authorised by such authority to upload in the registered account of the assessee a statement in such form and manner and setting forth such information, which is in the possession of an income-tax authority, and within such time, as may be prescribed.

Consequently, section 203AA is proposed to be deleted.

Applicability

These amendments will take effect from 1st June, 2020

Amendment u/s 194LC of the Act

Existing Provisions

Section 194LC of the Act, provided for a concessional rate of TDS at 5% by a specified company or a business trust, on interest paid to NRI on the following forms of borrowings (approved by the CG) made in foreign currency from sources outside India:

SN	Nature of Borrowings	Time
1	Monies borrowed under a loan agreement	On or after 01.07.2012 and before 01.07.2020
2	Borrowings by way of issue of any long-term infrastructure bond	On or after 01.07.2012 and before 01.07.2014
3	Borrowings by way of issue of long-term bond including long-term infrastructure bonds	On or after 01.10.2014 and before 01.07.2020

The concessional rate of TDS of 5% is also applicable in respect of monies borrowed by a specified company or a business trust from a source outside India by way of issue of rupee denominated bond (RDB) before 01.07.2020, to the extent such interest does not exceed the amount of interest calculated at the rate approved by the CG in this behalf.

Proposed Amendment

In order to attract fresh investment, create jobs and stimulate the economy, following amendments to be made; -

i. extend the period of concessional rate of TDS of 5% from 01.07.2020 to 01.07.2023;
ii. TDS @ 4% shall be deducted on the interest payable to NRI, in respect of monies borrowed in foreign currency from a source outside India, by way of issue of any long-term bond or RDB on or after 01.04.2020 but before 01.07.2023 and which is listed only on a recognised stock exchange located in any IFSC.

Applicability

This amendment will take effect from 1st April, 2020.

Amendment u/s 194LD of the act.

Existing Provisions

Section 194LD of the Act provides for lower TDS of 5% in case of interest payments to

(i) Foreign Institutional Investors (FII), &
(ii) (Qualified Foreign Investors (QFIs)

on their investment in
(i) Government securities, &
(ii) Rupee Denominated Bonds (RDB) of an Indian company

subject to the condition that the rate of interest does not exceed the rate notified by the CG.

The section further provides that the interest should be payable at any time on or after 01.06.2013 but before 01.07.2020.

Reason for Amendment

Representations have been received for extension of the time limit and also for a further concessional rate of TDS on interest payment on investment in municipal bonds, as Foreign Portfolio Investors (FPIs) have now been permitted to invest in municipal bonds by the Securities and Exchange Board of India (SEBI) and the Reserve Bank of India (RBI) under the limits available for FPI investments in State Development Loans (SDL).

Proposed Amendment

In order to attract fresh investment, create jobs and stimulate the economy, it has been proposed to amend section 194LD to, -
(i) extend the period of interest payable from 01.07.2020 to 01.07.2023;
(ii) provide that the concessional rate of TDS of 5% under the said section shall also apply on the interest payable, on or after 01.04.2020 but before 01.07.2023, to a FII or QFI in respect of the investment made in **municipal debt security**.

Applicability

This amendment will take effect from 1st April, 2020